

REMARKS

The claims now in the case are claims 1-14. The independent claims are 1, 6, 10, and newly presented independent claims 12, 13, and 14. The appropriate fee for three new independent claims is also being submitted.

Claim 1 has been amended to include the feature that media is only streamed at a predetermined time in the future, according to the user's request, if the user has a predefined presence status at that instant of time. Thus according to the invention the server detects if the user is present when the predetermined time is reached, and if so, automatically streams the media.

In contrast, the primary reference Thomas does not actively detect if the user is present to determine whether or not to stream media at a predetermined time. Rather, the user selects to watch the media immediately when they are logged in, or the user selects a relocate option to freeze or queue the media at a particular point to allow continuation later. As such, there is no teaching relating to automatically streaming media at a predetermined time in the future subject to detection of the user's presence at that time.

Claim 1 is therefore novel and also non-obvious, since this feature is also not shown by the secondary reference, Knudson. Corresponding amendments have been made to the other independent claims, 6 and 10.

New independent claims 12-14 are based on the subject matter of the previously presented independent claims, in combination with the subject matter of claim 3, directed toward the feature that the media streams are automatically streamed without further input from the user once they have been called up, but only if the user is present.

In contrast, Thomas teaches that the called up media can only be played subject to input from the user; and it is not automatically streamed at a predetermined time. Thus the system of Thomas is unsuitable for receiving scheduled broadcast streams since to receive those, the user would have to remain logged in to receive the stream at a particular time, and if the user was not present when logged in at the time of delivery, they would miss the program. As such, Thomas operates independently of any scheduling and simply plays media in response to receiving user input.

The invention of claims 12-14 solves the problem that where no user input is required to play the media scheduled, such as may occur in a media-on-demand scheduled broadcast, the media can be prevented from playing if the user's presence is not detected. Claims 12-14 are therefore novel and non obvious since they include features, not shown or taught in either of the references.

Please charge Deposit Account No. 26-0084 in the amount of \$630.00 to cover the cost of the three new independent claims over 3.

This is also a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for two months from October 31, 2008 to December 31, 2008. Applicant is a large entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$490.00 to cover the cost of the two month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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